



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

To: Board of Environmental Protection

From: Chris Redmond, Hazardous Waste Enforcement Unit, Bureau of
Remediation and Waste Management (BRWM)

Date: November 19, 2009

RE: Administrative Consent Agreement -
SB Acquisitions, LLC ("Saunders Brothers"), Greenwood, Maine

Statutory and Regulatory Reference: The Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq., specifies certain requirements for the management, storage, treatment and disposal of hazardous waste.

Location: Saunders Brothers, 256 Main Street, Greenwood, Maine

Description: Saunders Brothers has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The hazardous waste violations were identified during an inspection conducted at Saunders Brothers on January 6th and 9th, 2009. The violations identified include the following: 1) Failure to label containers of hazardous waste, 2) Failure to determine if wastes generated were hazardous, 3) Treating and disposing of hazardous wastes without a license, 4) Failure to conduct daily inspections of containers of hazardous waste, 5) Failure to provide a communication device in the facility's hazardous waste storage area, 6) Failure to have a contingency plan, 7) Failure to attempt to establish mutual aid agreements, 8) Failure to conduct annual training, and 9) Failure to comply with the conditions of a Department issued license.

To resolve these violations, Saunders Brothers has labeled containers of hazardous waste, made waste determinations on wastes generated at the facility, ceased the unlicensed treatment and disposal of hazardous waste, started conducting daily inspections, installed a communication device in the hazardous waste storage area, created a contingency plan, established mutual aid agreements, conducted annual training, complied with the conditions of Department License #O-207-HL-A-N, with the Department's solvent contaminated wiper policy, and with the hazardous waste management requirements. In addition, Saunders Brothers has agreed to pay to the Maine Hazardous Waste Fund a penalty of eleven thousand forty-five dollars (\$11,045.00) as specified in the Agreement, which has been paid.

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The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

Saunders Brothers has agreed to pay the above penalty which was based upon the type of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and any economic benefit realized. In this specific case, an economic benefit of two thousand four hundred dollars (\$2,400.00) was realized by improperly treating and disposing of hazardous waste at the facility rather than paying for the licensed disposal of the wastes. Mitigating factors considered in the penalty included Saunders Brothers' willingness to quickly resolve the violations, including hiring a consultant to review and implement policies to ensure compliance with the Hazardous Waste Rules.

Department Recommendation:

The Department recommends that the Board accept the Consent Agreement as part of its Consent Agenda to resolve the issues addressed.

Staff Contact persons:

Chris Redmond, Hazardous Waste Enforcement Unit, BRWM

Estimated time of presentation: No presentation; Consent agenda item



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GOVERNOR

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IN THE MATTER OF:

SB ACQUISITIONS, LLC)	ADMINISTRATIVE CONSENT
256 MAIN STREET, GREENWOOD)	AGREEMENT
OXFORD COUNTY, MAINE)	(38 M.R.S.A. § 347-A)
HAZARDOUS WASTE ACTIVITIES)	

This Agreement, by and among SB Acquisitions, LLC, d/b/a Saunders Brothers (hereinafter "Saunders Brothers") the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. Saunders Brothers is a Maine limited liability company that operates a wood turning and finishing business with its principal location at 256 Main Street in Greenwood, Maine. Calvin King is the Chief Operating Officer of Saunders Brothers.
2. The violations described herein occurred at 256 Main Street in Greenwood, Maine.
3. Saunders Brothers is a generator of hazardous waste including, but not limited to, listed and ignitable lacquer thinners. As a result, Saunders Brothers is subject to Maine's *Hazardous Waste, Septage and Solid Waste Management Act* ("Act") 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's *Hazardous Waste Management Rules* 06-096 CMR ("Rules"), Chapters 850 through 857. In addition, Saunders Brothers notified the U.S. Environmental Protection Agency ("US EPA") of its regulated waste activity and was assigned the US EPA hazardous waste generator identification number MED042141341. In February 2005, the parent of the facility's prior owner, Saunders Brothers, Inc., was issued Department License #O-207-HL-A-N to operate a solvent distillation unit for the beneficial re-use of paint thinners and solvents generated by the facility. In 2007, Saunders Brothers acquired the facility from Saunders Brothers, Inc. and on November 1, 2007 this license was transferred to Saunders Brothers.
4. On January 6th and 9th, 2009 Department staff conducted an inspection of Saunders Brothers at the location described in Paragraph 2 of this Agreement to assess compliance with the hazardous waste management standards of the Act and Rules. The inspection revealed the following violations:
 - A. Failure to label or mark each container of hazardous waste with the date upon which each period of accumulation begins and the words "Hazardous Waste," in violation of the Rules, 06-096 CMR 851 (8)(B)(3).

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SB ACQUISITIONS, LLC
265 MAIN STREET, GREENWOOD
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In the Hazardous Waste Storage Area (HWSA) Saunders Brothers failed to label two (2) 1-gallon containers of hazardous waste clear dip impregnator and one (1) 55-gallon container of recycled solvent with the words "Hazardous Waste" and with an accumulation start date. One (1) additional 55-gallon container of hazardous waste lacquer thinner stored in the HWSA was not marked with an accumulation start date. In the tumbler room area, one (1) 55-gallon container of hazardous waste wipers was not marked with the words "Hazardous Waste" and with an accumulation start date. This container was not managed in accordance with the alternative management standards for wipers and therefore subject to the management standards set forth in the Rules. In the paint room, one (1) 5-gallon container of hazardous waste paint waste was not marked with an accumulation start date. This 5-gallon container was represented as a "day can," but had not been emptied in several days at the time of inspection.

- B. Failure to determine if wastes generated are hazardous, in violation of the Rules, 06-096 CMR 851(5).

Saunders Brothers failed to determine that wood waste contaminated with F-listed solvents that was generated during tumbler cleaning was a hazardous waste. This hazardous waste was being burned in the facility's boiler.

- C. Treating or disposing of hazardous waste on-site without a license to do so, in violation of the Rules, 06-096 CMR 851(12)(A).

Saunders Brothers used wood waste mixed with F-listed solvents to clean tumbling machines at the facility. The hazardous waste-saturated wood was subsequently dried in drying ovens at the site and then burned in the facility's boiler. Based on estimates from employees, approximately twenty-two (22) gallons of hazardous waste F-listed solvents were disposed of in this manner every month. Additionally wipers contaminated with F-listed solvents were sent off site for laundering. Saunders Brothers intended to manage these wipers in accordance with the Department's Alternative Wiper Standards. However, Saunders Brothers had not sufficiently examined pollution prevention options and the container used to store the wipers did not meet the Alternative Wiper Standards in order to allow for visual inspection of liquids. As a result, the hazardous waste-contaminated wipers were subject to the Rules, rather than the Alternative Wiper Standards.

- D. Failure to conduct and record daily inspections of all hazardous waste containers including satellite accumulation areas, in violation of the Rules, 06-096 CMR 851(13)(D)(1).

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Between December 14, 2008 and January 7, 2009, Saunders Brothers failed to inspect containers of hazardous waste located in the facility's Hazardous Waste Storage Area (HWSA) and in the Dip Room Satellite Accumulation Area (SAA).

- E. Failure to provide a communications device at the hazardous waste storage area, in violation of the Rules, 06-096 CMR 851 (8)(B)(5) which incorporates by reference 40 CFR 264.34.

There was no phone or other means of communication immediately available at the hazardous waste storage area.

- F. Failure to have a contingency plan that is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste, in violation of the Rules, 06-096 CMR 851(8)(B)(5) which incorporates by reference 40 CFR 264.51(a).

Saunders Brothers did not have a contingency plan for the facility.

- G. Failure to attempt to establish mutual aid agreements and to attempt to update annually such agreements, in violation of the Rules, 06-096 CMR 851(13)(C)(7)(c)(ii) which incorporates by reference 40 CFR 264.37.

Saunders Brothers had not attempted to establish or attempted to update annually aid agreements with local authorities.

- H. Failure to conduct an annual review of the initial training, in violation of the Rules, 06-096 CMR 851(8)(B)(5) which incorporates by reference 40 CFR 264.16(c).

Saunders Brothers did not conduct annual training for one (1) employee in the year 2007. For the year 2008, Saunders Brothers could only locate training records for one (1) employee. Saunders Brothers could not verify that any training had been conducted in 2008 for approximately twelve (12) employees working in positions associated with hazardous waste.

- I. Failure to comply with Condition of Approval #5 of Department License #O-207-HL-A-N.

Department License #O-207-HL-A-N is an abbreviated license issued to the facility to operate a distillation unit for the beneficial re-use of hazardous waste solvents generated by the facility. Condition of Approval #5 of the license states, in pertinent part, that "...Saunders Brothers must store the

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hazardous waste solvent as well as the treated solvents in accordance with the requirements of the Maine Hazardous Waste Management Rules 06-096 CMR Chapter 851, Section 8 B (2-5)..." As set forth above, 06-096 CMR 851(8)(B)(3) states that each container must be marked with the words "Hazardous Waste" and with an accumulation start date. Saunders Brothers failed to mark one (1) container of treated solvent, stored in the Hazardous Waste Storage Area, with the words "Hazardous Waste" or with an accumulation start date.

J. Failure to comply with Condition of Approval #7 of Department License #O-207-HL-A-N.

Department License #O-207-HL-A-N is an abbreviated license issued to the facility to operate a distillation unit for the beneficial re-use of hazardous waste solvents generated by the facility. Condition of Approval #7 of the license states, in pertinent part, that "...Saunders Brothers shall conduct a daily inspection and maintenance log for the unit..." Saunders Brothers failed to conduct daily inspections of the distillation unit from December 14, 2008 to January 9, 2009.

5. On February 27, 2009, the Department issued a Notice of Violation (NOV) to Saunders Brothers for the activities described in Paragraph 4 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that Saunders Brothers perform corrective actions and respond to the Department in writing within thirty (30) days describing the corrective actions undertaken to address each of the violations cited. Specific corrective actions requested by the Department include, but are not limited to, the following: cease the practice of burning wood waste contaminated with listed solvents in the facility's boiler, label containers of hazardous waste, conduct daily inspections of containers of hazardous wastes, provide communications at hazardous waste storage area, create a contingency plan for the facility, conduct annual hazardous waste training for employees, and comply with conditions of Department License #O-207-HL-A-N.
6. On April 7, 2009, Saunders Brothers submitted to the Department a written response to the NOV, indicating the corrective actions undertaken to address the violations. The corrective actions included, but are not limited to, the following: ceasing the practice of burning wood waste contaminated with listed solvents, labeling containers of hazardous waste, conducting daily inspections of containers of hazardous waste, installing an alarm system in the hazardous waste storage area, conducting annual hazardous waste training, and complying with conditions of Department License #O-207-HL-A-N. On October 8, 2009, Saunders Brothers submitted a contingency plan for the facility. On October 16, 2009, Saunders Brothers submitted documentation of compliance with the Department's Solvent Contaminated Wiper Management Policy.

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7. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
8. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
9. To resolve the violations referenced in Paragraph 4 of this Agreement, Saunders Brothers agrees to:
 - A. Henceforth, comply with 38 M.R.S.A. §§ 1301 through 1319-Y and all applicable standards of the Rules, 06-096 CMR Chapters 850 through 857, pertaining to generators of hazardous waste.
 - B. Comply with the conditions of Department License #O-207-HL-A-N
 - C. Immediately upon Saunders Brothers' signature of this Agreement, pay to the *Treasurer, State of Maine c/o Hazardous Waste Fund*, a civil monetary penalty in the amount of eleven thousand forty-five dollars (\$11,045.00).
10. The Department and Office of the Attorney General grant a release of their causes of action against Saunders Brothers for the specific violations listed in Paragraph 4 of this Agreement on the express condition that all actions listed in Paragraph 9 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect public health, safety, or the environment. This limited release shall not become effective until all requirements of this Agreement are satisfied.
11. Non-compliance with this Agreement voids the release set forth in Paragraph 10 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
12. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.
13. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of six (6) pages:

SB ACQUISITIONS, LLC d/b/a Saunders Brothers

BY: 

Calvin King, Chief Operating Officer

DATE: 10-26-09

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
Susan M. Lessard, Chair

DATE: _____

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____
Peter LaFond, Assistant Attorney General

DATE: _____